

MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEES

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

Plaintiffs' Executive Committee for Personal Injury and Death Claims	Plaintiffs' Executive Committee for Commercial Claims
Ronald L. Motley (1944-2013) Jodi Westbrook Flowers / Donald A. Migliori, <i>Co-Chairs</i> MOTLEY RICE LLC James P. Kreindler, <i>Co-Chair</i> KREINDLER & KREINDLER LLP	Stephen A. Cozen, <i>Co-Chair</i> Sean Carter, <i>Co-Chair</i> COZEN O'CONNOR
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Via ECF and Federal Express

July 26, 2019

The Honorable Sarah Netburn
Thurgood Marshall United States Courthouse
40 Foley Square, Room 430
New York, NY 10007

Re: *In Re Terrorist Attacks on September 11, 2001*
Status Letter

Dear Judge Netburn:

I am writing on behalf of the Plaintiffs' Executive Committees (the "PECs") in response to your Order, dated July 11, 2019 (ECF No. 4678), requesting a status update on the progress of securing depositions of witnesses in federal custody. As detailed below, we have been in communications with counsel for the two inmates in USP Florence ADMAX in Florence, Colorado (the "Supermax inmates"); the three Guantanamo detainees; and, have reached out to the Department of Justice (the "Government") regarding the witness allegedly in witness protection.

Counsel for the Supermax inmates has indicated he will speak to his clients about plaintiffs deposition requests very soon, but has not yet had the chance to discuss these matters directly with them. We have been advised that counsel for the Guantanamo detainees are presently attending pre-trial hearings in their capital cases in Guantanamo Bay, Cuba this week. They informed us that they have communicated with their clients pertaining to depositions and the Court's Order. Counsel for Mustafa al Hawsawi is presently awaiting his client's instructions as to how he wants to proceed. Today, counsel for Khalid Shaikh Mohammad informed the PECs that Mr. Mohammad will not consent to a deposition "at the present time." Counsel stated that "the primary driver" of this decision is the "capital nature of the prosecution" and that "[i]n the absence of a potential death sentence much broader cooperation would be possible." Also today, counsel for Ali Abdul Aziz Ali informed the PECs that Mr. Ali "respectfully declines to be deposed" noting that "memory and cognitive difficulties, among other issues, present an obstacle to his participation in a deposition." We have advised the Government of this information and will promptly communicate with the Government as soon as we hear more from counsel. The PECs still need to determine whether Mr. Hawsawi will be made available and to confer with the applicable parties regarding procedures relating to objections and assertions of privilege and will keep Your Honor advised.

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We have separately sent a letter to Mr. J. Robert Bryden, Acting Director of the Office of Enforcement Operations within the Department of Justice, as requested by the Government, about deposing the witness allegedly in the Witness Security Program, including a request for an in-person meeting. The Government advised that the PECs should expect a response next week.

Very truly yours,

KREINDLER & KREINDLER LLP

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/s/ James P. Kreindler

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